

REMARKS/ARGUMENTS

Amendments

Before this Amendment, claims 1-17 and 19-21 were present for examination. Claims 1 and 9 are amended. Claim 2 is canceled, and claim 18 was previously canceled. No new claims are added. Therefore, claims 1, 3-17 and 19-21 are present for examination, and claims 1, 9, and 14 are the independent claims. No new matter is added by these amendments. Applicants believe this amendment places the application in condition for allowance, and respectfully request that it be entered and the application as amended reconsidered.

35 U.S.C. §103(a) Rejection, Chien

The Final Office Action ("Office Action") has rejected claims 1-17 and 19-21 under 35 U.S.C. §103(a) as being allegedly unpatentable over the cited portions of Chien, U.S. Patent Publ. 2001/0054003, ("Chien"). Applicants respectfully traverse.

Claims 1-8

Claim 1 has been amended to clarify that *the first input is a bid premium from one of a plurality of entities competing for access to the elective balance through bid premiums on respective redemption categories*. This amendment is supported in the specification at least at paragraphs [0043]-[0045] and in Figure 2.

The invention relates to the allocation of elective balances. An account holder can use an interface, served across a communication network, to allocate the elective balance to redemption categories. The redemption categories have respective bid premiums received from entities competing for access to the elective balance. (See Applicants' claim 1.)

By contrast, Chien describes a system and method for using loyalty points. Chien's system integrates a loyalty program and the financial transaction system of a transaction card provider to facilitate the use of loyalty points in transactions. (Chien paragraph [0025]) Consumers can convert points to monetary values in a stand-alone arrangement (Chien Figures 3-9, paragraph [0050]) or an integrated arrangement, wherein the consumer can specify that a

particular purchase will be paid for with points at the time the item for purchase is selected (Chien Figures 12A-D, paragraph [0066]).

Thus, Chien is directed to a different problem than is Applicants' invention. Chien is mainly concerned with the redemption of points, while Applicants' invention is directed to the allocation of a balance to redemption categories and the calculation of category redemption amounts based on the allocations and on bid premiums received from entities competing for access to the elective balance. Applicants' system provides an "auction like market" for the elective balance. (Specification paragraph [0008]).

As such, several elements of Applicants' claims are not disclosed, taught, or suggested by Chien, and therefore Chien cannot support a rejection of Applicants' claims under 35 U.S.C. § 103(a).

For example, claim 1 recites in part *instructions executable by the microprocessor based device to ... allocate at least a portion of an elective balance to a redemption category*. Chien describes paying for a particular purchase using loyalty points, but does not describe, teach, or suggest redemption categories, nor the allocation of portions of an elective balance to them.

In support of the rejection, the Office Action cites paragraph [0052] of Chien as disclosing this element. However, this passage of Chien describes redeeming loyalty points for a particular purchase, and does not describe allocating part of a balance to a redemption category.

In another example, claim 1 recites that an input is received from a *bid device*. Claim 1 has also been amended to recite that this *input is a bid premium from one of a plurality of entities competing for access to the elective balance through bid premiums on redemption categories*. This amendment emphasizes the bidding aspect of Applicants' system (which creates the system's "auction like" nature). Chien completely lacks this bidding aspect.

In support of the rejection (of former claim 2, which has been incorporated into claim 1), the Office Action cites paragraph [0013] of Chien for showing that the first input is a *bid premium*. This paragraph indicates that the conversion ratio between points and monetary

value may vary between merchants, but indicates that these ratios are adjusted by an “account manager”. Chien does not describe a *bid device* from which a *bid premium* is received.

The amendment to claim 1 reinforces the difference between claim 1 and the system of Chien. Chien does not describe a *plurality of entities competing for access to the elective balance through bid premiums on redemption categories*, and in fact does not describe *redemption categories* at all.

Additionally, claim 1 recites that *the redemption amount is of a same unit of measurement as the elective balance*. The Office Action admits that Chien does not explicitly teach this limitation, but argues that it would have been obvious to modify Chien to include it because the modification would “provide the benefit of increased opportunities to expand product choice for consumers.” (Paper 20080707 p. 4) Applicants respectfully note that this is not a proper basis for the rejection, and is the result of hindsight reconstruction. The mere recognition of a benefit of a feature of Applicants’ invention provides no rational basis for concluding that another person would have arrived at the feature without knowledge of Applicants’ disclosure.

Chien does not teach or suggest all of the limitations of Applicants’ claim 1. These limitations would not be obvious modifications of Chien at least because Applicants’ invention and Chien’s system are directed to solving different problems. As such, claim 1 is allowable over Chien. Claim 2 has been canceled. Claims 3-8 depend from claim 1 and add further limitations, and are allowable for at least this reason, as well as for the novel features they may recite.

Claims 9-13

Claim 9 is a method claim that includes steps that include features similar to those discussed above with respect to claim 1, and that distinguish over Chien for reasons similar to those given above.

For example, claim 9 recites in part *receiving a percentage number, wherein the percentage number represents a percentage of an elective balance via the second interface, wherein the percentage of the elective balance is associated with a redemption category*. As is

explained above, Chien does not describe redemption categories or allocating portions of balances to them. The Office Action admits that Chien does not disclose using a *percentage number* in an allocation, but argues that it would have been obvious to modify Chien to do so because a benefit would be provided. (Paper 20080707 p. 6) As is explained above, the mere recognition of a benefit of Applicants' invention is not a proper rationale for an obviousness rejection.

Claim 9 has also been amended to emphasize that *the bid premium is received from one of a plurality of entities competing for access to the elective balance through bid premiums on redemption categories*. Chien lacks this competitive bidding aspect.

Claim 9 is allowable over Chien for at least the reasons given above for claim 1. Claims 10-13 depend from claim 9 and add further limitations, and are therefore also allowable over Chien.

Claims 14-17 and 19-21

Claim 14 is allowable over Chien for some of the same reasons as are claims 1 and 9. For example, claim 14 recites in part *receiving an allocation selection from the redemption device, wherein the allocation selection indicates an amount of the balance to be associated with a redemption category*. As is explained above, Chien does not describe redemption categories or allocating portions of a balance to them.

Claim 14 also recites *providing a bid premium interface to a bid device via the communication network, wherein the bid premium interface comprises bid premiums of a plurality of redemption categories*. The Office Action admits that Chien does not disclose this element, but argues it would have been obvious to modify Chien to include it simply because a benefit would result from doing so. (Paper 20080707 p. 8) Applicants note again that this is not a proper basis for forming an obviousness rejection, and that Chien completely lacks this bidding aspect.

Chien does not teach or suggest all of the limitations of claim 14, and the limitations missing from Chien would not have been obvious modifications of Chien. Claim 14 is therefore allowable over Chien. Claims 15-17 and 19-21 depend from claim 14 and add

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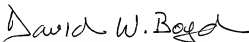
further limitations, and are therefore allowable for at least this reason, as well as for the novel features they may recite.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,



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